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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,325	06/01/2006	Dieter Hagist	502901-348PUS	3578
27799 7590 08/30/2010 COHEN, PONTANI, LIEBERMAN & PAVANE LLP 551 FIFTH AVENUE SUITE 1210 NEW YORK, NY 10176				
EXAMINER				
BAYOU, AMENE SETEGNE				
ART UNIT		PAPER NUMBER		
3746				
MAIL DATE		DELIVERY MODE		
08/30/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/581,325

**Applicant(s)**

HAGIST ET AL.

**Examiner**

AMENE S. BAYOU

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-13 and 15-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21 and 22 is/are rejected.
- 7) ☒ Claim(s) 1,3-13 and 15-20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ ~~Notice of Informal Patent Application~~
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/30/10 has been entered.

### ***Claim Objections***

2. Claims 1 ,3-13,15-20 are objected to because of the following informalities: Claim 1 recites "an annular element 12", "first vertical arm 13" , "second vertical arm 15" which should have been written as "an annular element ", "first vertical arm " , " second vertical arm " respectively. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

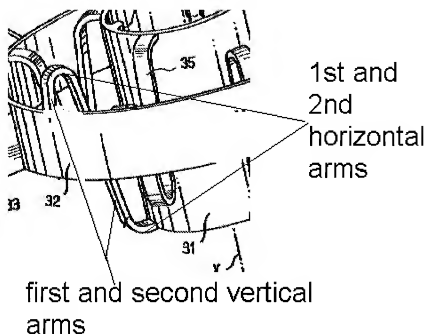
4. Claims 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Firtion et al (WO 02/40302 .Please note that US patent 7252075 which is a functional equivalent has been used).

**In Reference to Claim 21**

Firtion et al disclose a device for retaining a fuel pump in a fuel container of a motor vehicle (see figure 2 and 3) , comprising a **pump holder (30) including: first retaining means (42,43,44)** for supporting the pump holder on a baffle pot; **second retaining means (57 integral with 31)** for supporting the **fuel pump (15)** , and a **damping device (32,34,35 )** connecting the first and second retaining means, the **damping device (34,35 )** comprising a **first annular element (32)** and a plurality of arms (all the vertical and horizontal arms of elements 34 and 35) , wherein the arms are subjected to a torsional or a bending load (inherently) when the fuel pump in the **second retaining means (57 integral with 31)** moves relative to the **first retaining means (42,43,44)**, thereby effecting an elastic retention of the fuel pump, wherein the arms include; at least one first vertical arm (**34 ,35 both have vertical arm**) connected to the **first annular element (32)** ,the at least one first vertical arm extending substantially in a vertical direction and further connected to the **first retaining means (42,43,44 as unit is connected to annular element 32 which in turn is connected to the vertical arm of 34 and 35)**;first and second horizontal arms (**both 34 and 35 have horizontal arms**) spaced apart in the vertical direction (**clearly shown in figure 3A**) ,each of the first and second horizontal arms comprising annular elements (the horizontal arms are interconnected in annular fashion via ring 32), only the first horizontal arm of the first and second horizontal arms being connected to the at least one first vertical arm ,the second horizontal arm of the first and second horizontal arms being connected to the second

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retaining means ;and a second vertical arm connecting the first and second horizontal arms (see annotated drawing below) .



#### In Reference to Claim 22

Firtion et al disclose a device for retaining a fuel pump in a fuel container of a motor vehicle (see figure 2 and 3), wherein the **second retaining means (57 integral with 31)** includes a section of pipe for receiving the fuel pump, the first and second horizontal arms surrounding a circumferential surface of the section of pipe.

### ***Response to Arguments***

5. Applicant's amendment to claim 1 have overcome the prior art rejection and therefore the argument is moot. Claims 1 ,3-13,15-20 are in condition for allowance. In regards to claim 21 applicant's amendment still does not overcome the prior art rejection. A detailed discussion supported by annotated drawing is presented above and will not be repeated here.

### ***Allowable Subject Matter***

6. Claims 1 ,3-13,15-20 are allowed. Claim 1 however needs to be revised for minor correction as indicated in the "claim objection" section above.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amene Bayou whose telephone number is (571)270-3214. The examiner can normally be reached on Monday through Friday, 8:30am to 5:30pm EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on 571-272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more

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information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Devon C Kramer/  
Supervisory Patent Examiner, Art  
Unit 3746

/Amene S Bayou/

Examiner, Art Unit 3746